

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

UNITED STATES OF AMERICA,	:	
	:	
v.	:	
	:	CRIMINAL ACTION NO.
MARTIN CARILLO	:	1:12-CR-313-1-RWS
BALDERAS,	:	
	:	
Defendant.	:	

ORDER

This case is before the Court on Defendant Balderas's Motion for Reduction of Sentence [Doc. No. 49].

Under 18 U.S.C. § 3582(c)(2), this Court has discretion to reduce an already incarcerated defendant's term of imprisonment where that defendant was sentenced based on a sentencing range that has subsequently been lowered by the United States Sentencing Commission. The United States Sentencing Commission promulgated Amendment 782, which amended the Sentencing Guidelines for drug offenses by lowering the base offense level by two levels in some cases. See U.S.S.G. 2014 Supp. to App. C. Amendment 782 may be applied retroactively.

Balderas was originally sentenced on April 29, 2014, to a term of 57

months' imprisonment pursuant to a plea agreement [Doc. No. 39]. The Court held Balderas accountable for 2,486.06 kilograms of marijuana and calculated his original Guidelines range as follows:

Base offense level: 32
Specific offense characteristic: -2 (safety valve)
Acceptance of responsibility: -3
Total offense level: 27
Criminal history category: I
Resulting Guidelines range: 70-87 months

The Court then varied below the range and sentenced Balderas to a total term of 57 months' imprisonment.

Under Amendment 782, Balderas's Guidelines range is as follows:

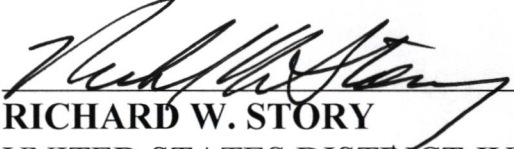
Base offense level: 30
Specific offense characteristic: -2 (safety valve)
Acceptance of responsibility: -3
Total offense level: 25
Criminal history category: I
Resulting Guidelines range: 57-71 months

In re-sentencing Balderas, this Court may not go lower than the low-end of the amended range: Life. See U.S.S.G. § 1B1.10(b)(2)(A) (providing that a court "shall not reduce a defendant's term of imprisonment . . . to a term that is less than the minimum of the amended guideline range"). Because the Court has already sentenced Balderas to 57 months, this sentence does not change under

Amendment 782.

For the reasons discussed above, Defendant Balderas's Motion for Reduction of Sentence [Doc. No. 49] is DENIED.

SO ORDERED, this 9th day of May, 2016.



RICHARD W. STORY
UNITED STATES DISTRICT JUDGE